

**REMARKS**

At the outset, the Examiner is thanked for the thorough review and consideration of the pending application. The Office Action dated January 21, 2010 has been received and its contents carefully reviewed.

By this Amendment, claims 10, 15, 16, 18-20 are amended, and claims 11, 22, 27, 29, 33, 35, 41, 43, 46, 50, 51, and 53 are canceled without prejudice to or disclaimer of the subject matter contained therein. Claims 4, 9, 13-14, 17, 21, 23-26, 28, 30-32, 34, 36-40, 42, 44-45, 47-49, 52, and 54-57 are canceled. Accordingly, claims 1-3, 5-8, 10, 12, 15-16, 18-20, and 58-63 are pending of which claims 1-3, 5-8, and 12 are withdrawn from consideration. Reexamination and reconsideration is respectfully requested.

The Office Action objects to claims 16 and 41. Claim 16 has been amended and claim 41 is now canceled.

The Office Action rejects claims 15, 16, 18-20, 27, 33, 35, 43, 46, 50, 51, and 53 under 35 U.S.C. § 112, second paragraph as being indefinite.

Claims 15 and 18 are now amended to obviate the rejection. Claims 27, 33, 35, 43, 46, 50, and 51 are now canceled.

The Office Action rejects claims 10, 11, 15, 16, 18-20, 22, 27, 29, 33, 35, 41, 43, 46, 50, 51, and 53 under 35 U.S.C. § 102(b) as being anticipated by U.S. Pat. App. Pub. No. 2003/0103521 to Raphaeli ("Raphaeli"). Claims 11, 22, 27, 29, 33, 35, 41, 43, 46, 50, 51, and 53 are now canceled and thus, the rejection with respect to these claims are now moot. As to the remaining claims, the rejection is respectfully traversed.

Claim 10 recites, among other features, waiting until a transmission of data through the transmission medium is terminated; after the transmission is terminated, sensing whether the transmission medium is idle during a predetermined time interval determined regardless of a priority, wherein the priority is assigned to a message packet to be transmitted by the network device.

First, Raphaeli fails to disclose the feature of sensing step in claim 10. According to the claimed invention, the network device senses a status of the transmission medium during a predetermined time after the status of the transmission medium became idle. That is, the network device does not transmit data, but waits a predetermined time with just sensing the status of the transmission medium after a transmission of data through the transmission medium is terminated.

In contrast, Raphaeli discloses in paragraph [0213] that “[i]f the backoff algorithm is initiated when the channel is idle then the station may initiate transmission immediately, otherwise the transmitting station randomizes a backoff.” Emphasis added. Accordingly, Raphaeli teaches away the feature of sensing step in claim 10.

In addition, according to the claimed invention, the network device senses a status of the transmission medium during a predetermined time determined regardless of a priority of message packet. That is, a first network device which is to transmit a first message packet having higher priority must wait during same time to a second network device which is to transmit a second message packet having lower priority.

In contrast, according to Raphaeli, a third network device which is to transmit a third data having lower priority must wait for longer time than a forth network device which is to transmit a forth message packet having higher priority. Thus Raphaeli fails to teach the feature of ‘predetermined time’ of the claim 10.

Second, Raphaeli fails to teach the feature of adjusting operation of claim 10. According to the claimed invention, a range of competitive window is changed based on the priority assigned to the message packet and retry-count.

On the contrary, Raphaeli discloses that “ [t]he invention provides a mechanism to dynamically adapt the size of the contention window to the number of stations that wish to transmit at any given time.” See paragraph [0221], emphasis added. That is, the contention window of Raphaeli is changed based on ‘the number of stations’, not the priority and retry-count.

Therefore, Claim 10 recites patentable subject matter. Claims 15-16 and 18-20 are at least patentable by virtue of their dependency from claim 10, as well as for the features they recite.

Newly added claims 58-63 are at least patentable for the reasons as discussed above.

The foregoing amendments place the application in condition for allowance. Early, favorable action is respectfully solicited. If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at (202) 496-7500 to discuss the steps necessary for placing the application in condition for allowance. All correspondence should continue to be sent to the below-listed address.

If these papers are not considered timely filed by the Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time, or any other fees required to complete the filing of this response, may be charged to Deposit Account No. 50-0911. Please credit any overpayment to deposit Account No. 50-0911.

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Respectfully submitted,

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